

1 GARY E. KLAUSNER (SBN 69077)
2 KRIKOR J. MESHEFEJIAN (SBN 255030)
3 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
4 10250 Constellation Boulevard, Suite 1700
5 Los Angeles, California 90067
6 Telephone: (310) 229-1234; Facsimile: (310) 229-1244
7 Email: gek@lnbyb.com; kjm@lnbyb.com

8 TOM LALLAS (SBN 66512)
9 MARK D. HURWITZ (SBN 151159)
10 LEVY, SMALL & LALLAS
11 A Partnership Including Professional Corporations
12 815 Moraga Drive
13 Los Angeles, California 90049-1633
14 Telephone: (310) 471-3000; Facsimile: (310) 471-7990
15 Email: tlallas@lsl-la.com; mhurwitz@lsl-la.com

16 Attorneys for Plaintiff Barry Beitler

17
18 **UNITED STATES BANKRUPTCY COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20 **SANTA ANA DIVISION**

21 In re:

22 JOHN JEAN BRAL

23 Debtor and Debtor-
24 in-Possession.

25 BARRY BEITLER,

26 Plaintiff,

27 v.

28 JOHN JEAN BRAL,

Defendant.

Case No. 8:17-bk-10706-SC

Chapter 11

Adv. Case No. 8:17-ap-01092-SC

**EVIDENTIARY OBJECTIONS TO
DECLARATION OF JOHN J. BRAL IN
SUPPORT OF MOTIONS TO BIFURCATE
ISSUES OF LIABILITY AND
DISCHARGEABILITY IN ADVERSARY,
OR TO STAY ADVERSARY UNTIL
UNDERLYING LIABILITY ON CLAIMS
IS DETERMINED IN ANOTHER
PROCEEDING**

Date: October 19, 2017

Time: 11:00 a.m.

Place: Courtroom 5C
411 West Fourth Street
Santa Ana, CA

Barry Beitler (“Plaintiff”) hereby submits these Evidentiary Objections to that certain *Declaration Of John J. Bral In Support Of Motions To Bifurcate Issues Of Liability And Dischargeability In Adversary, Or To Stay Adversary Until Underlying Liability On Claims Is Determined In Another Proceeding* (the “Declaration”) [Doc. No. 10] filed by Defendant John Jean Bral (the “Debtor” or “Defendant”).

I. Summary of Objections

The Declaration is a poor substitute for actual evidence. Most, if not all of the Declaration, constitutes inadmissible argument, opinion, and hearsay, and none of the assertions set forth in the Declaration are supported by any actual evidence, documentary or otherwise.

II. Evidentiary Objections

A. **Page 2, Paragraph 5:** “Over time, Beitler used his substantially greater financial resources to try to gain economic advantages over me and other members in the SPEs, and to bring about my financial ruin. For example when the SPEs’ loans fell into default, Beitler would acquire these loans (through newly formed LLC’s 100% owned and controlled by Beitler) and then foreclose upon the properties owned by the SPEs and to the detriment of his former co-members. Worse, the entities controlled by Beitler then sought recourse against me on the guarantees that I executed securing these loans, while ignoring the co-guarantees that Beitler and his related entities executed.”

Objection: Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for any of the statements that he makes in paragraph 5 of the Declaration. Moreover, these statements constitute nothing more than opinion and argument, devoid of any actual facts or factual references. Moreover, these general, vague, and irrelevant statements are not supported by any specific facts, information, or documentation.

Sustained:

Overruled:

1 **B. Page 4, paragraph 11, lines 5 - 8:** “In order to resolve whether or not the Beitler Parties
2 have any claims, the presiding court will have to resolve a host of difficult legal issues and weight
3 the merits of competing forensic accounting reports and testimony.”

4 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
5 Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for this
6 statement. Moreover, this statement constitute nothing more than legal opinion and argument,
7 devoid of any actual facts or factual references.

8 Sustained:_____

9 Overruled:_____

10 **C. Page 6, para. 24:** “When the Loan fell into default, Beitler acquired it, through Steward,
11 and initiated a foreclosure against the OV Property, instead of working to protect the rights of
12 Ocean View’s members.”

13 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
14 Argument. Fed R. Evid. §§ 701, 702. The Debtor has not established any foundation for the
15 statement “instead of working to protect the rights of Ocean View’s members.” Moreover, this
16 statement constitute nothing more than legal opinion and argument, devoid of any actual facts or
17 factual references.

18 Sustained:_____

19 Overruled:_____

20 **D. Pages 7 – 8, paras. 32 – 35:** Entire section of Declaration titled “The Importance Of
21 Objecting To The Beitler Parties’ And Steward Claims”

22 **Objection:** Lack of Foundation. Fed. R. Evid. §§602, 701; Improper Opinion and
23 Argument. Fed R. Evid. §§ 701, 702; Hearsay. Fed R. Evid. §§ 801, 802.

24 The Debtor has not established any foundation for the statements set forth in this section
25 of the Declaration, much of which is based on what unspecified persons “advised” the Debtor (*see*

1 statements beginning with phrase "I have been advised" and "I have also been advised").
2 Moreover, these statements constitute nothing more than opinion and argument, devoid of any
3 actual facts or factual references.

4 Sustained:_____

5 Overruled:_____

6
7 Dated: October 5, 2017

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

8
9 By: /s/ Krikor J. Meshefjian

10 GARY E. KLAUSNER
11 KRIKOR J. MESHEFEJIAN
12 Attorneys for Barry Beitler

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **EVIDENTIARY OBJECTIONS TO DECLARATION OF JOHN J. BRAL IN SUPPORT OF MOTIONS TO BIFURCATE ISSUES OF LIABILITY AND DISCHARGEABILITY IN ADVERSARY, OR TO STAY ADVERSARY UNTIL UNDERLYING LIABILITY ON CLAIMS IS DETERMINED IN ANOTHER PROCEEDING** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 5, 2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Beth Gaschen bgaschen@wgllp.com,
kadele@wgllp.com;lfisk@wgllp.com;lgauthier@lwgllp.com;nlockwood@lwgllp.com
- Mark D Hurwitz mhurwitz@lsl-la.com, dsmall@lsl-la.com
- Gary E Klausner gek@lnbyb.com
- William N Lobel wlobel@lwgllp.com,
nlockwood@lwgllp.com;jokeefe@lwgllp.com;banavim@wgllp.com
- Krikor J Meshefesian kjm@lnbrb.com
- United States Trustee (SA) ustregion16.sa.ecf@usdoj.gov

2. **SERVED BY UNITED STATES MAIL**: On **October 5, 2017**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 5, 2017**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Served via Overnight Mail

Hon. Scott C. Clarkson
United States Bankruptcy Court
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5130 / Courtroom 5C
Santa Ana, CA 92701-4593

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

October 5, 2017

Date

Stephanie Reichert

Type Name

/s/ Stephanie Reichert

Signature